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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/015,548

12/11/2001

Robert Crites

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EXAMINER

LAstra, DANIEL

ART UNIT

PAPER NUMBER

3688

NOTIFICATION DATE

DELIVERY MODE

12/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/015,548	Applicant(s) CRITES, ROBERT	
	Examiner DANIEL LASTRA	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-31 have been examined. Application 10/015,548 (METHOD FOR CONTACT STREAM OPTIMIZATION) has a filing date 12/11/2001

Response to Amendment

2. In response to Final Rejection filed 03/11/09, the Applicant filed an RCE on 09/11/09, which amended claims 1-8, 10, 16, 18-21, 23, 28 and 30

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15, 27 and 31 recite the limitation "the merged list". Claims 20 and 28 recite "the second list". There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 15, 20-21 and 27-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Kepecs (US 2001/0032128).

Claim 1, Kepecs teaches:

A computer-implemented method of determining a prioritized listing of offers for use to contact potential customers, the method comprises:

generating in a computer an ordered listing of offers from a set of offers, by which to contact a potential customer from a group of potential customers by considering the potential customer independently from others of the potential customers in the group, during generating of the ordered list of offers for the potential customer (see paragraphs 12, 66)

with generating comprising:

assigning offers by the computer based on individual attributes of the potential customer independently of corresponding attributes of the others of the potential customers in the group (see paragraph 27 "offers are customized for each individual consumer based on the particular consumer's purchase or shopping history and the consumer response to the offers"; see *paragraph 96*);

repeating generating for subsequent others of the potential customers to produce corresponding ordered lists (See *paragraph 66-68*): and

producing a second list of offers that is a list provided from the ordered lists of offers from the one and subsequent others of the potential customers, with the second list based upon a budget for contacting the potential customers in the group, (see paragraph 34, 66, 93, 94).

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Claim 2, Kepecs teaches:

eliminating offers that are mutually exclusive from the ordered list of offers (see paragraphs 144 “Brand X offers at \$3, \$4, \$2 are mutually exclusive).

Claim 3, Kepecs teaches:

wherein the ordered list of offers is prioritized based on highest expected profit (see paragraph 12).

Claim 4, Kepecs teaches:

wherein generating further comprises: *filtering out illegal offers from the* set of offers for each member of the group of potential customers (see paragraph 94 “not to generate an offer that would cause the maximum budget limit to be violated”).

Claim 5, Kepecs teaches:

producing an alternative ordered list of offers having N offers if a number of offers exceeds a number N of offers allocated for a potential customer (see paragraph 72 “filler offers”).

Claim 6, Kepecs teaches:

wherein generating the ordered list of offers is performed independently for each potential customer in the group of potential customers to produce a list for *the one and subsequent others of the potential customers* (see paragraph 27 “offers are customized for each individual consumer based on the particular consumer's purchase or shopping history and the consumer response to the offers”).

Claims 7, 20 and 28, Kepecs teaches:

A computer-implemented method of determining a prioritized number of offers to contact customers from a group of potential customers, the method comprising:

determining by a computer an ordered list of offers to be sent to a potential customer (see paragraph 66),

repeating determining by the computer of ordered lists for subsequent others of the potential customers (See paragraphs 66-68);

producing a second list of offers from the ordered lists of offers from the one and subsequent others of the potential customers, with the second list being further based upon a budget for contacting the potential customers in the group, and for a potential customer (see paragraph 93-94).

eliminating any offers that are not applicable to the potential customer based on eligibility rules for the offer or offers for which an expected profit for the potential customer is below a threshold amount (see paragraph 62-69); and

ordering remaining offers by expected profit (see paragraph 62-69).

Claims 8 and 21, Kepecs teaches:

producing a proposed solution having an ordered list of N offers where N is the lesser of the total remaining offers and the maximum number of offers allowed for the potential customer (see paragraph 64 "maximum number of offers that may be presented to a consumer via a particular channel").

Claims 15 and 27, Kepecs teaches:

sorting the merged list of offers by return on investment and truncating the bottom of the merged list of offers (see paragraphs 93-94).

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Claim 31, Kepecs teaches:

sorting the merged list of offers by return on investment and truncating the bottom of the merged list of offers (see paragraph 93-95).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-14, 16-19, 22-26 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kepecs (US 2001/0032128) in view of Galperin (US 6,993,493).

Claims 9, 22 and 29, Kepecs does not teach:

wherein the proposed solution is represented as a bit string of a length that is equal to the total of the remaining offers. However, Galperin teaches a promotion optimization system where a bit string length is used to determine the total remaining offers to present to a customer (see col 3, lines 20-30 “1, if offer j goes to a customer i; = 0 otherwise”). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Kepecs would modify his invention in order to determine the remaining offers to display to a consumer using a bit string matrix, as taught by Galperin in order to meet the maximum number of offers per customer constraint.

Claims 10, 23 and 30, Kepecs teaches:

The method of claim 9 wherein the proposed solution is checked against rules of the form (M,S) meaning at most M offers from set S can be sent to a potential customer (see paragraph 64 “maximum number of offers that may be presented to a consumer via a particular channel”).

Claims 11 and 24, Kepecs does not teach:

wherein if an (M,S) rule is violated, a list of new alternative proposed solutions is generated by: determining a number of bits $T > M$ from the set S that indicate offers should be sent in the proposed solution; generating new alternative proposed solutions each proposed solution containing new alternative offers, wherein each new alternative offers is represented in a bit string by setting T-M number of bits that are not a part of the set S, and which immediately follow a rightmost one bit R1 in the proposed solution. However, Galperin teaches a promotion optimization system where a bit string length is used to determine the total remaining offers to present to a customer (see col 3, lines 20-30 “1, if offer j goes to a customer i; = 0 otherwise”). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Kepecs would modify his invention in order to determine the remaining offers to display to a consumer using a bit string matrix, as taught by Galperin in order to meet the maximum number of offers per customer constraint and the number of alternative or fillers offers to present to customers (see Kepecs paragraph 72).

Claims 12 and 25, Kepecs does not teach:

generating alternative proposed solutions based on all combinations of the T one bits up to R1 and any zero bits in set S between R1 and R2 containing M one bits.

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However, Galperin teaches a promotion optimization system where a bit string length is used to determine the total remaining offers to present to a customer (see col 3, lines 20-30 “1, if offer j goes to a customer i; = 0 otherwise”). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Kepecs would modify his invention in order to determine the remaining offers to display to a consumer using a bit string matrix, as taught by Galperin in order to meet the maximum number of offers per customer constraint and the number of alternative or fillers offers to present to customers (see Kepecs paragraph 72).

Claims 13 and 26, Kepecs teaches:

wherein a new alternative proposed solution is merged with any preceding list of proposed solutions (see paragraphs 68-69).

Claim 14, Kepecs teaches:

wherein the list of proposed solutions is checked in decreasing order of profitability (see paragraphs 68-69).

Claim 16, Kepecs does not teach:

flagging potential customers who are truncated for an offer and rerunning flagged customers after removing exhausted offers and offers that the flagged potential customers were already approved for, while lowering a maximum number of allowed offers *for the flagged potential customers*. However, Galperin teaches a promotion optimization system where customers are ranked-ordered in a list based upon propensity to respond to an offer, where a percentage of the list is selected to receive the offer (see col 1, lines 35-42). Therefore, it would have been obvious to a person of

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ordinary skill in the art at the time the application was made, to know that Kepecs would modify his invention to determine the customers from a list that did not receive an offer, as taught by Galperin in order to target said customers with offers.

Claim 17, Kepecs teaches:

wherein truncating occurs at a boundary defined by a constraint on the method (see paragraphs 68-69).

Claim 18, Kepecs teaches:

wherein truncating is selectable by the user (see paragraphs 68-69).

Claim 19, Kepecs teaches:

wherein truncating occurs based on individual variance of profit from a potential customer with potential customers having low variance being truncated for certain offers before potential customers having high variance (see paragraphs 68-69).

Response to Arguments

6. Applicant's arguments filed 09/11/09 have been fully considered but they are not persuasive. The Applicant argues that Kepecs does not teach assigning offers by the computer based on individual attributes of the potential customer independently of corresponding attributes of others of the potential customers in the group because according to the Applicant, Kepecs states that the purchase history for a group of consumers is considered in generating an offer to a consumer from a group of consumer. The Examiner answers that Kepecs teaches in paragraphs 27 and 96 that offers are customized for each individual consumer based on the particular consumer's attributes such as purchase or shopping history and the consumer response to the

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offers. Therefore, contrary to Appellant's argument, Kepecs teaches Applicant's claimed invention.

The Applicant argues that Kepecs does not teach repeating generating for subsequent others of the potential customer to produce corresponding ordered lists". The Examiner answers that Kepecs teaches generating a sorted list of offers for a customer (see paragraph 66). Therefore, contrary to Appellant's argument, Kepecs teaches Applicant's claimed invention.

The Applicant argues that Kepecs does not teach "filtering out illegal offers from the set of offers for a member of the group of potential customers". The Examiner answers that Kepecs teaches in paragraph 94 not to generate an offer that would cause the maximum budget limit to be violated. Therefore, contrary to Appellant's argument, Kepecs teaches Applicant's claimed invention.

The Applicant argues that Kepecs does not teach "producing a proposed solution having an ordered list of N offers where N is the lesser of the total remaining offers and the maximum number of offers allowed for the potential customer" because according to the Applicant, Kepecs describes allocating a threshold number of offers for a product category. The Examiner answers that Kepecs teaches in paragraph 64 allocating a maximum number of offers that may be presented to a consumer via a particular channel. Therefore, contrary to Appellant's argument, Kepecs teaches Applicant's claimed invention.

The Applicant argues that Kepecs does not teach does not teach that at most M offers from set S can be sent to a potential customer. The Examiner answers that

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Kepecs teaches allocating a maximum number of offers that may be presented to a consumer via a particular channel (see paragraph 64) and not generating an offer to cause the maximum budget limit to be violated (see paragraph 94). Therefore, contrary to Appellant's argument, Kepecs teaches Applicant's claimed invention.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT A WEINHARDT can be reached on (571)272-6633. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/D. L./
Primary Examiner, Art Unit 3688
December 5, 2009